this section apply only to reportable interest and dividend payments.

(b) *Conditions that invoke the backup withholding requirement*—(1) *Conditions applicable to all reportable payments.* A payor of a reportable payment must deduct and withhold under section 3406 if—

(i) The payee of the reportable payment does not furnish the payee's taxpayer identification number to the payor, as required in section 3406(a)(1)(A) and § 31.3406(d)–1; or

(ii) The Internal Revenue Service or a broker notifies the payor that the taxpayer identification number furnished by its payee for a reportable payment is incorrect, as described in section 3406(a)(1)(B) and § 31.3406(d)–5.

(2) *Conditions applicable only to reportable interest or dividend payments.* A payor of a reportable interest or dividend payment must deduct and withhold under section 3406 if—

(i) The Internal Revenue Service or a broker notifies the payor that its payee has underreported interest or dividend income, as described in section 3406(a)(1)(C) and § 31.3406(c)–1; or

(ii) The payee fails to certify to the payor or broker that the payee is not subject to withholding due to notified payee underreporting, as described in section 3406(a)(1)(D) and § 31.3406(d)–2.

(c) *Exceptions.* The requirement to withhold does not apply to certain minimal payments as described in § 31.3406(b)(4)–1 or to payments exempt from withholding under §§ 31.3406(g)–1 through 31.3406(g)–3.

(d) *Cross references.* For the definition of *payor,* see § 31.3406(a)–2. For the definition of *taxpayer identification number*, see § 31.3406(h)–1(b).

[T.D. 8637, 60 FR 66114, Dec. 21, 1995]

§ 31.3406(a)–2 Definition of payors obligated to backup withhold.

(a) *In general. Payor* means the person that is required to make an information return under section 6041, 6041A(a), 6042, 6044, 6045, 6049, 6050A, 6050N, or 6050W with respect to any reportable payment (as described in section 3406(b)), or that is described in paragraph (b) of this section.

(b) *Persons treated as payors.* The following persons are treated as payors for purposes of section 3406—

(1) A grantor trust established after December 31, 1995, all of which is owned by two or more grantors (treating for this purpose spouses filing a joint return as one grantor);

(2) A grantor trust with ten or more grantors established on or after January 1, 1984 but before January 1, 1996;

(3) A common trust fund; and

(4) A partnership or an S corporation that makes a reportable payment.

(c) *Persons not treated as payors.* A person on the following list is not treated as a payor for purposes of section 3406 if the person does not have a reporting obligation under the section on information reporting to which the payment relates—

(1) A trust (other than a grantor trust as described in paragraph (b)(1) or (2) of this section) that files a Form 1041 containing information required to be shown on an information return, including amounts withheld under section 3406; or

(2) A partnership making a payment of a distributive share or an S corporation making a similar distribution.

(d) *Effective date.* The provisions of this section apply to payments made after December 31, 2002.

[T.D. 9010, 67 FR 48759, July 26, 2002, as amended by T.D. 9496, 75 FR 49835, Aug. 16, 2010]

§ 31.3406(a)–3 Scope and extent of accounts subject to backup withholding.

A payor who is required to withhold under § 31.3406(a)–1 must withhold—

(a) On the accounts subject to withholding under § 31.3406(a)–1 (b)(1)(i) or (b)(2)(ii); and

(b) On the accounts subject to withholding under § 31.3406(a)–1(b)(1)(ii) or (b)(2)(i), as described under § 31.3406(d)–5 (relating to notification of incorrect TIN) or § 31.3406(c)–1 (relating to notified payee underreporting), respectively.

[T.D. 8637, 60 FR 66114, Dec. 21, 1995]

§ 31.3406(a)–4 Time when payments are considered to be paid and subject to backup withholding.

(a) *Timing*—(1) *In general.* If backup withholding is required under section 3406 on a reportable payment (as defined in section 3406(b)), the payor